
HALDIMAND COUNTY

Report LSS-02-2023 Unsolicited Offer - Road Closure and Conveyance - Part of Hill Street and Part of Snow Street, Cayuga



For Consideration by Council in Committee on February 7, 2023

OBJECTIVE:

To authorize staff to proceed with a road closure and conveyance for part of Hill Street and part of Snow Street in Cayuga.

RECOMMENDATIONS:

1. THAT Report LSS-02-2023 Unsolicited Offer - Road Closure and Conveyance Part of Hill Street and Part of Snow Street, Cayuga be received;
2. AND THAT Memorandum LSS-M01-2023 Additional Information related to LSS-02-2023 Road Closure and Conveyance – Part of Hill St. and Snow St. Cayuga, be received and remain confidential.
3. AND THAT the subject road allowance, as shown in yellow hashtags on Attachment #1 to LSS-02-2023 and legally described as PIN 38232-0219; Hill Street Village of Cayuga East of Grand River Between Snow Street and Monture Street; Haldimand County, be stopped up, closed and declared surplus to all County needs;
4. AND THAT the subject road allowance, as shown in purple and blue hashtags on Attachment #1 to LSS-02-2023 and legally described as part of PIN 38232-0216; Snow Street Village of Cayuga East of Grand River Between Part 1 on 18R4787 and Obadiah Street; Haldimand County, be stopped up, closed and declared surplus to all County needs;
5. AND THAT staff be authorized to negotiate the sale of the properties legally described as PIN 38232-0219; Hill Street Village of Cayuga East of Grand River Between Snow Street and Monture Street; Haldimand County and part of PIN 38232-0216; Snow Street Village of Cayuga East of Grand River Between Part 1 on 18R4787 and Obadiah Street; Haldimand County, to Barbara Birgitt Nichols, in accordance with the parameters outlined in Option 3 of Memorandum LSS-M01-2023;
6. AND THAT staff be authorized to negotiate the sale of the property legally described as part of PIN 38232-0216; Snow Street Village of Cayuga East of Grand River Between Part 1 on 18R4787 and Obadiah Street; Haldimand County, to Robert William Nichols and Barbara Birgitt Nichols, in accordance with the parameters outlined in Option 3 of Memorandum LSS-M01-2023;
7. AND THAT public notice of the proposed closure and conveyance be given;
8. AND THAT a by-law be presented for enactment to authorize the closure and conveyance;
9. AND THAT the Mayor and Clerk be authorized to execute all necessary documents.

Prepared by: Melissa Lloyd, Property Coordinator

Reviewed by: Lori Friesen, Manager of Legal & Support Services

Respectfully submitted: Cathy Case, General Manager of Corporate & Social Services

Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

An unsolicited offer to purchase County owned lands (unopened road allowances), being a part of Snow Street and a part of Hill Street, Cayuga has been received. Staff have determined that these unopened road allowances are not required for municipal purposes and can be deemed surplus to the County's needs. The purchase price offered is less than the Vacant Land Values Chart, therefore closed session Memorandum LSS-M01-2023 is to be reviewed along with this report as it provides an analysis of the options available to Council.

BACKGROUND:

Unopened Road Allowances:

Historically, parcels of land were identified by the Crown and placed in ownership of the local municipality to be used for future roads as necessary, and are located throughout Haldimand County. Typically, there are three options when dealing with these road allowances:

1. leave as is (an unopened road allowance) in case there is a future requirement;
2. open the road via by-law and make it a travelled road; or
3. deem as surplus to the County's needs, close and convey the road allowance and sell the land as approved by by-law.

The County receives a number of unsolicited offers to purchase unopened road allowances annually. In most cases, the offers to purchase come from property owners that have an unopened road allowance that runs through their property or the unopened road allowance abuts their property. The latter is the purpose of this report.

Due Diligence and Process:

When staff receive offers to purchase unopened road allowances, there are various steps taken:

- **Application and Fee Submission:** In lieu of a potential purchaser utilizing an Agreement of Purchase and Sale or a realtor, a simple form must be submitted which provides staff with the necessary information to initiate the process. The Application outlines information regarding the parcel(s) of land the Applicant is seeking to purchase, what they would like to do with the property, location of the road allowance compared to their property (i.e. abutting) and confirmation that if the conveyance occurs, the properties would merge. The Applicant also acknowledges that if approved, that the property is sold as is, the land will not be sold for less than market value plus HST, and that they are responsible for the legal and conveyance costs. The application fee is included in the User Fee By-law that is approved annually by Council.
- **Feedback:** Staff utilize the information from the Application to seek feedback from other County divisions, utilities, local conservation authorities (as applicable) and other relevant external agencies to determine if there are any objections or concerns in consideration of request to purchase. For example – future development needs or easement requirements. Abutting property owners are also sent letters to inform them of the request to purchase, thereby enabling an opportunity to ask questions or provide feedback.
- **Due Diligence:** Each offer has its own elements of uniqueness that requires vetting and verification. Generally speaking, the due diligence process includes:
 - Reviewing information from the Land Registry Office to confirm the County owns the property and has clear title to the lands;
 - Confirmation that the Applicant(s) are the legal owners of the property for which the unopened road allowance runs through or abuts to;

- Determine if there are aspects on title that may impact a potential sale (i.e. existing easements);
 - Review of the unopened road allowance to ensure that sale of property would not place any other abutting land owner in a position of being landlocked or in a detrimental situation;
 - Review of all comments and information received during feedback process; and
 - Physical inspection of the property to determine if there are any physical or local impacts to the property that would affect the market value (i.e. if a buildable lot increases the value, use of land is limited in nature can decrease the value).
- **Communication:** staff continue on-going communication with the Applicant through-out the process.
 - **Report:** the information is assembled and a report is presented to Council with staff providing information regarding the offer, results of the due diligence process and recommendations for consideration by Council.

Determining Value of Land:

When requests to purchase road allowances are received, the Applicant(s) are advised that the property, if deemed surplus, will be sold for no less than the appraised value, plus HST, plus all costs of closure and conveyance. The purpose of the appraisal is to estimate the market value of the subject property based on the most probable “best use” at the time. The County’s past practice is to require the Applicant(s) to pay for a certified appraisal to determine the value of the property. The cost of obtaining a certified appraisal is significant, being approximately \$3,000 to \$4,000. Certified appraisals are completed by professional appraisers and are based upon facts. It involves a comprehensive review of the property, impacts of existing municipal by-laws (i.e. zoning and land use), neighbouring land uses, and benchmarking against other similar properties and various appraisal methodologies. Where the property is small in nature, such as an unopened road allowance, staff will suggest that the Applicant obtain an opinion of value from a realtor rather than a certified appraisal. As the name suggests, the values provided by the realtor are based upon the opinion of a realtor and are in most cases, provided free of charge or considerably less than an appraisal fee.

In addition to utilizing an opinion of value, staff also reference the Vacant Land Values Chart (VLVC). The VLVC is a tool that was implemented in 2015 with the assistance of different local realtors to aid in determining market values for various property types and for different areas within the County. The VLVC is reviewed annually to ensure alignment with market conditions. Staff are currently in the process of updating this chart for 2023 which was last updated and verified in early 2022.

The Offer to Purchase:

Barbara Birgitt Nichols is the owner of a parcel of property that abuts Monture Street North, Cayuga and is shown on Attachment #1 (orange hashtags). Barbara Birgitt Nichols and Robert William Nichols are the joint owners of 61 Monture Street North, Cayuga as shown on Attachment #1 (pink hashtags).

Barbara Birgitt Nichols and Robert William Nichols (the Applicants) have submitted an application to purchase a part of Hill Street (approximately 0.47 acres) identified in Attachment #1 (yellow hashtags) for \$3,525 plus HST; and a portion of Snow Street (a total of approximately 0.60 acres) identified in Attachment #1 (purple and blue hashtags) for a purchase price of \$4,500 plus HST. The Applicants have signed an environmental acknowledgement and agreed to purchase the road allowances on an “as is” basis if the sale is approved; and confirmed that the road allowances will be merged as shown on Attachment #1 (green arrows) with their existing properties. The Applicants have stated that they are seeking to purchase part of Hill Street and part of Snow Street as the unopened road allowances are abutting their property. They would like to fix the grading as the road allowance is low lying and the

surface water from their properties run off into these lands, causing the property to be continually swampy. The pond that is on Mrs. Nichols property (Part A, Attachment #1) extends onto the unopened road allowance and the Applicants would like to do some landscaping and fix the drainage to decrease the standing water to help reduce mosquito population. The Applicants stated that they have been maintaining the road allowance lands for the past eight years.

To assist in developing their offer, the Applicants obtained a letter of opinion from a realtor (Attachment #2). Upon review of the offer and the VLVC, the offer to purchase is less than the VLVC. The Applicants were notified of the difference in values and have opted to maintain their original offer to purchase. The closed session Memorandum LSS-M01-2023 provides an analysis of the options available to Council to address the request to purchase these unopened road allowances.

ANALYSIS:

Along with their offer to purchase part of Snow Street and part of Hill street, Robert William Nichols and Barbara Birgitt Nichols (the Applicants) submitted an Application and the associated fee.

In order to determine the feasibility of the sale of this property, if there is a municipal need for the lands, either in whole or in part, or if there are certain restrictions or provisions that should be placed on a proposed sale, staff seek feedback from County divisions including Public Works, Facilities and Parks, Building Controls & By-Law Enforcement, Community Development & Tourism, Emergency Services, Engineering Services, Environmental Services and Planning as well as utility companies.

All comments received supported the sale and staff concur that the property does not serve any municipal purpose.

Letters were also sent to the two abutting landowners providing notification of the offer to purchase. No comments or feedback has been received as a result of these letters.

As noted on Attachment #1, although only a portion of Snow Street is included in the offer to purchase, the remaining portion of Snow Street remains viable and accessible as it abuts the unopened road allowance of Obadiah Street East that remains in County ownership.

The Applicants have proposed a total purchase price of \$8,025 plus HST, which is lower than the value calculated using the County's Vacant Land Value Chart. Staff communicated the different of the offer and the VLVC; and the Applicants have confirmed that they would like to retain the original offer as submitted. Staff have reviewed the offer and have provided additional information related to the negotiations for the proposed sale through confidential Memorandum LSS-M01-2023 for discussion during the Closed session of the Council in Committee meeting of February 7, 2023. Analysis of the options available to Council will be reviewed in order for staff to be given direction regarding the potential sale of these unopened road allowances.

FINANCIAL/LEGAL IMPLICATIONS:

All costs associated with the property transactions will be borne by the purchaser. If sold, the property would no longer be the legal responsibility or liability of the County. Subsequently, any proceeds from sale, if applicable, would be contributed to the Land Sales Reserve in accordance with County Policy.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

REFERENCES:

None.

ATTACHMENTS:

1. Map of the Subject Lands
2. Letter of Opinion from Realtor